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9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN FRANCISCO DIVISION
12

13 UNITED STATES OF AMERICA,)	CASE NO. CR 19-408 CRB
14 Plaintiff,)	
15 v.)	STIPULATION AND PROPOSED
16 DEMARCO SHAW,)	PROTECTIVE ORDER RE: DISCOVERY
17 Defendant.)	
18)	

19 The government and the defendant in the above-captioned matter, by and through their counsel,
20 hereby stipulate and request that the Court enter the following Protective Order governing the
21 production of discovery in this action. The parties agree that this Protective Order applies to discovery
22 deemed Confidential and subject to Protective Order produced prior to and after the date the Court signs
23 the Protective Order. Finally, the parties agree that this Protective Order does not enlarge or alter their
24 respective obligations under Federal Rule of Criminal Procedure 16.

25 The defendant is charged with an offenses under Title 18, United States Code, Sections
26 2252(a)(4)(B) and (b)(2) and Section 2422(b). The United States already has started producing
27 documents pertaining to the defendant and the charged offense to defense counsel. In the near future,
28 the United States anticipates producing additional sensitive discovery including personal identifying

1 information and photographs of the Minor Victim in the case, the release of which, the government
2 believes, would jeopardize the safety of that Minor Victim.

3 The parties agree that the Court should order that the Protected Information be made available to
4 the attorney for the defendant subject to a protective order limiting the dissemination of this information.

5 To ensure that Protected Information is not subject to unauthorized disclosure or misuse,

6 **IT IS HEREBY ORDERED** that all Protected Information be marked as “Confidential” by the
7 United States when produced to the defense. Defense counsel of record, their investigators, assistants,
8 employees, and independent contractors (collectively, “the defense team”) may review with the
9 defendant all discovery material produced by the government. All parties agree that no member of the
10 defense team shall provide a defendant with copies of, or permit defendant to make copies of, or have
11 unsupervised access to, the Protected Information. The government and defense counsel are ordered to,
12 and shall continue to, work together to ensure that these materials are protected, but that defendant has
13 as much access to the materials as can be provided consistent with this Court’s Order.

14 Defense counsel also may provide copies of Protected Information to any experts retained to
15 assist with the preparation of the defense in the captioned case. The defendant, all members of the
16 defense team, and any experts who receive Protected Information under this Protective Order shall be
17 provided a copy of this Protective Order along with those materials and shall initial and date the
18 Protective Order reflecting their agreement to be bound by it. This Protective Order shall also apply to
19 any copies made of any materials covered by this Protective Order.

20 The materials provided pursuant to this Protective Order may only be used for the specific
21 purpose of preparing or presenting a defense in this matter unless specifically authorized by the Court.

22 **IT IS FURTHER ORDERED** that, if a defendant disagrees that material should be Protected
23 Information, counsel for that defendant shall meet and confer with the United States regarding the issue,
24 and the United States may, at its option, de-designate material as Protected Information. If the parties
25 cannot agree on whether material should remain Protected Information, the defendant may file a motion
26 with the Court. Until the Court rules on that motion, all materials designated as Protected Information
27 shall continue to be treated as Protected Information.

28 **IT IS FURTHER ORDERED** that neither a defendant nor any member of the defense team

1 shall provide any Protected Information to any third party (*i.e.*, any person who is not a member of the
2 defense team or a potential witness in the case) or make any public disclosure of the same, other than in
3 a court filing, without the government's express written permission or further order of this Court. If a
4 party files a pleading that references or contains or attaches Protected Information subject to this
5 Protective Order, that filing must be under seal.¹

6 **IT IS FURTHER ORDERED** that, except as otherwise provided in this Protective Order
7 regarding defendant's review of the Protected Information, Protected Information shall not be provided
8 to defendant. If after the conclusion of the case, defendant is represented by new counsel and files a
9 motion pursuant to 28 U.S.C. § 2255, the United States will provide new counsel with the documents
10 and materials subject to and under the terms of this Protective Order. This stipulation is without
11 prejudice to either party applying to the Court to modify the terms of the Protective Order, with respect
12 to pro se litigation pursuant to 28 U.S.C. § 2255 or otherwise. This Court shall retain jurisdiction to
13 modify this Protective Order upon motion of either party even after the conclusion of district court
14 proceedings in this case.

15
16 DATED: September 9, 2019

Respectfully submitted,

17 DAVID L. ANDERSON
18 United States Attorney

19 /s/
20 ROSS WEINGARTEN
Assistant United States Attorney

21 /s/
22 JODI LINKER
23 Attorney for Demarco Shaw

24 IT IS SO ORDERED.

25 DATED: September 10, 2019

26 
HONORABLE CHARLES R. BREYER
United States District Judge

27
28 ¹ This Order authorizes such filings under seal, and the parties are not required to seek additional
authorization from the Court to do so.